



## Notice of Hearing Examiner Decision

04/30/2018

To: Interested Parties and Parties of Record

RE:           Project Name: Seaside at Kingston PPlat, PBD, ACUP  
              Applicant: Seaside at Kingston, LLC  
                          12900 East 180<sup>th</sup> St., Suite 200  
                          Bothell, WA 98011  
              Application: Preliminary Plat (PPlat), Performance Based  
                          Development (PBD), Administrative Conditional Use  
                          Permit (ACUP)  
              Permit Number: 17-04643, 17-04646, 17-04647

Enclosed is the Decision issued by the Kitsap County Hearing Examiner for the above project.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

[http://www.kitsapgov.com/dcd/lu\\_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.pdf](http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.pdf)

The Decision of the Hearing Examiner is final, unless appealed, as provided under Washington law.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. If you wish to view the case file or have other questions, please contact [Help@Kitsap1.com](mailto:Help@Kitsap1.com) or (360) 337-5777.

CC:   Owner: Nathan's Glen Three, LLC, c/o Levi Holmes, [levi@jwjgroup.com](mailto:levi@jwjgroup.com)  
      Applicant: Seaside Kingston LLC, [eric@element-residential.com](mailto:eric@element-residential.com)  
      Representative: Gary Lindsay, [glindseyinc@gmail.com](mailto:glindseyinc@gmail.com)  
      Project Engineer: NL Olson & Associates Inc., [nlolson2@nlolson.com](mailto:nlolson2@nlolson.com)  
      Health District  
      Public Works  
      Parks  
      Navy

Kitsap County DSE  
 Kitsap County Prosecutor  
 Kitsap County Assessor  
 Kitsap County DCD  
 Kitsap Sun  
 Kitsap Transit  
 North Kitsap Fire District  
 North Kitsap School District  
 Puget Sound Energy  
 Water Purveyor - KPUD  
 Sewer Purveyor – Kitsap County  
 Point No Point Treaty Council  
 Suquamish Tribe  
 WA Dept of Fish & Wildlife  
 WA State Dept of Ecology-SEPA  
 WA State Dept of Ecology-Wetland Review  
 WA State Dept of Transportation

## Interested Parties:

Michael & Mary Kulish, [matozcomm@mkulish.com](mailto:matozcomm@mkulish.com)  
 Jane Mack, [jane.mack73@gmail.com](mailto:jane.mack73@gmail.com)  
 Stanley Mack, [mackstanleyj@gmail.com](mailto:mackstanleyj@gmail.com)  
 Bruce Williams, [bawilliams@centurytel.net](mailto:bawilliams@centurytel.net)  
 Marieta Szubski, [marietta@windermere.com](mailto:marietta@windermere.com)  
 David Bolin, [david@dbolinco.com](mailto:david@dbolinco.com)  
 Logan Hammon, [logan.hammon@hotmail.com](mailto:logan.hammon@hotmail.com)  
 Jim Dixon, [docjimdux@hotmail.com](mailto:docjimdux@hotmail.com)  
 William & Julie Westwater, [westwater@gmail.com](mailto:westwater@gmail.com)  
 Jon Sole, [jsole@writeso.com](mailto:jsole@writeso.com)  
 Connie Gordon, [gordocon@hotmail.com](mailto:gordocon@hotmail.com)  
 Dahlia Malin, [dalmalin@comcast.net](mailto:dalmalin@comcast.net)  
 John Barlow, [john@jbarlow.net](mailto:john@jbarlow.net)  
 Matt Keller, [mkkellers@hotmail.com](mailto:mkkellers@hotmail.com)  
 Bill Paine, [paine922@hotmail.com](mailto:paine922@hotmail.com)  
 Michael & Ingrid Schaper, [ingridschaper@msn.com](mailto:ingridschaper@msn.com)  
 Betsy Cooper, [betsycooper1@gmail.com](mailto:betsycooper1@gmail.com)  
 Kelly Foley, [kmfoley6@gmail.com](mailto:kmfoley6@gmail.com)  
 Morgan Kruse, [morgankruse.mk@gmail.com](mailto:morgankruse.mk@gmail.com)  
 Dennis & Evelyn Trabant, [gmatrabant@gmail.com](mailto:gmatrabant@gmail.com)  
 Patricia Morrissey, [bstarre@gmail.com](mailto:bstarre@gmail.com)  
 James Leary, [jlajil@aol.com](mailto:jlajil@aol.com)  
 Ruth Westergaard, [westeruth@gmail.com](mailto:westeruth@gmail.com)  
 Jason Rhoads, [JRHOADS@NK SCHOOL.ORG](mailto:JRHOADS@NK SCHOOL.ORG)  
 Dan & Nancy Martin, [danjmartin@icloud.com](mailto:danjmartin@icloud.com)  
 Chris & Kathy B., [hhkata7@hotmail.com](mailto:hhkata7@hotmail.com)  
 James A Kolhoff, PO Box 844, Kingston, WA  
 Janice Hill, PO Box 496 Kingston, WA  
 Kay Peiguss, [kkpeiq1939@yahoo.com](mailto:kkpeiq1939@yahoo.com)  
 Rebecca Pirtle, [rpirtle@co.kitsap.wa.us](mailto:rpirtle@co.kitsap.wa.us)  
 James & Noel Leary, [sandwalkn@yahoo.com](mailto:sandwalkn@yahoo.com)  
 Dave Wetter, [dwetter@mindspring.com](mailto:dwetter@mindspring.com)  
 Beth Berglund, [kcacchair@gmail.com](mailto:kcacchair@gmail.com)

Catherine Hackett, [cat000herine@hotmail.com](mailto:cat000herine@hotmail.com)  
Troy & Suzanne Hermanson, [tshermanson@comcast.net](mailto:tshermanson@comcast.net)  
Christy Dugan, [sisdugan@gmail.com](mailto:sisdugan@gmail.com)  
Denise Giuntoli, [denise@sinclair.net](mailto:denise@sinclair.net)  
Ed Coviello, [EdwardC@KitsapTransit.com](mailto:EdwardC@KitsapTransit.com)  
Mark Libby, [mklubby@earthlink.net](mailto:mklubby@earthlink.net)  
Jeff & M. Bowers, [QCKitsap@gmail.com](mailto:QCKitsap@gmail.com)  
Bob Hill, [bobhill@centurytel.net](mailto:bobhill@centurytel.net)  
Jet Woelke, [jetw@windermere.com](mailto:jetw@windermere.com)  
Bobbie Moore, [elliottmoore@comcast.net](mailto:elliottmoore@comcast.net)  
Alan Chessman, [chesspeople@comcast.net](mailto:chesspeople@comcast.net)  
Walt Elliott, [elliottmoore@comcast.net](mailto:elliottmoore@comcast.net)  
Lisa & Mark Fritzer, [lisafritzer01@gmail.com](mailto:lisafritzer01@gmail.com)  
Michael Crovitz, [mdcrovitz@centurytel.net](mailto:mdcrovitz@centurytel.net)  
Sandra Steele, [steeleinc@silverlink.net](mailto:steeleinc@silverlink.net)  
Amy Maule, [wingscript@gmail.com](mailto:wingscript@gmail.com)  
Stella Vakarcs, [svakarcs@comcast.net](mailto:svakarcs@comcast.net)  
Mark & Lynn Freeman, [markf53@msn.com](mailto:markf53@msn.com)  
Marilyn Bode, [lidenbode@aol.com](mailto:lidenbode@aol.com)  
Carole Nelson, [carole00@comcast.net](mailto:carole00@comcast.net)  
Mary Gleysteen, [marygleysteen@gmail.com](mailto:marygleysteen@gmail.com)  
Kris Libby, [kristinelibby@mac.com](mailto:kristinelibby@mac.com)  
Dennis & Loriann Flanders, [djdenniswhatever@hotmail.com](mailto:djdenniswhatever@hotmail.com)  
Bryan & Margaret Monroe, [shasta77rio@me.com](mailto:shasta77rio@me.com)  
Chris Jacobson & Patty Fliege, [patty-chris@comcast.net](mailto:patty-chris@comcast.net)  
Chris Sheak, [chrissheak@comcast.net](mailto:chrissheak@comcast.net)  
Misty McIntosh, [misty.mcintosh@gmail.com](mailto:misty.mcintosh@gmail.com)  
Ormela Abazi, [oabazi@hotmail.com](mailto:oabazi@hotmail.com)  
Kathryn Thompson, [kathryn078@icloud.com](mailto:kathryn078@icloud.com)  
Rick Eveleth, [rickeveleth@comcast.net](mailto:rickeveleth@comcast.net)  
Jack & Robin Lott, [jlott@shuttlesmart.net](mailto:jlott@shuttlesmart.net)  
Jack & Svetlana Skalican, [jlott@shuttlesmart.net](mailto:jlott@shuttlesmart.net)  
Terry Wagener, [tewagener@q.com](mailto:tewagener@q.com)  
Dave Muller, [davemuller@windermere.com](mailto:davemuller@windermere.com)  
Todd & Lorraine Thoroughman, [lthoroughman@yahoo.com](mailto:lthoroughman@yahoo.com)  
Madelane Pieratt, [madelane@comcast.net](mailto:madelane@comcast.net)  
Nancy Tietje, [cpp27604@centurytel.net](mailto:cpp27604@centurytel.net)  
Patrick Pearson, [patrick051@centurytel.net](mailto:patrick051@centurytel.net)  
Robert Smaus & Iris Tees, [robertsmaus@gmail.com](mailto:robertsmaus@gmail.com)  
Christopher & Rebecca Iffland, [rebeccaiffland@gmail.com](mailto:rebeccaiffland@gmail.com)  
Diane Goebel & Richard Brown, [diane.goebel1@gmail.com](mailto:diane.goebel1@gmail.com)  
Dennis & Evelyn Trabant, [gmatrabant@gmail.com](mailto:gmatrabant@gmail.com)  
Mark & Karen Scholl, [mkscholl@earthlink.net](mailto:mkscholl@earthlink.net)  
Douglas Hallock, [dhallock@windermere.com](mailto:dhallock@windermere.com)

**KITSAP COUNTY HEARING EXAMINER  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**Seaside at Kingston Preliminary Plat, Performance Based Development,  
and Administrative Conditional Use Permit  
File Nos. 17-04643, 17-04646, and 17-04647**

**April 27, 2018**

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**1. FINDINGS OF FACT**

**1.1 Pro posal.** Seaside Kingston, LLC requests Preliminary Plat and Performance Based Development approval to create 140 lots, and Administrative Conditional Use Permit approval to construct multi-family style housing on these parcels. The proposal subdivides 7.08 acres into 140 zero-lot-line parcels ranging from 832 to 1,092 square feet. Fourteen buildings will house the 140 attached townhome-style residences. The proposal includes open space, recreational amenities, landscaping, access roads, stormwater treatment and detention control vaults, and utilities. Lindvog Road NE frontage improvements include a vertical curb, gutter, planting strip and six-foot sidewalk.

**Applicant:** Seaside at Kingston, LLC, 12900 East 180<sup>th</sup> Street, Suite 200, Bothell, WA 98011.

**Property Owner:** Nathan's Glen Three LLC, c/o Levi Holmes, 3599 NW Carlton Street, Suite 201, Silverdale, WA 98383.

**Site Location:** Lindvog Road NE, Kingston, WA 98346 (Assessor Parcel Nos. 262702-4-079-2001, 262702-4-080-2008, 262702-4-081-2007, and 262702-4-082-2006).

**1.2 Administrative Record.** Before the hearing, the Hearing Examiner reviewed Exhibits 1-52, which included the Staff Report. At the hearing, the Department of Community Development ("DCD") proposed adding an additional condition as Exhibit 53; a citizen proposed adding comment as Exhibit 54; and the Examiner proposed adding a link to the Design Standards for the Community of Kingston as Exhibit 55 (DCD later submitted the actual document). After the hearing, the comment sign-up sheet was submitted as Exhibit 56 and two public comments were received (Exhibits 57 and 58). The Examiner admitted all exhibits.

**1.3 SEPA.** The SEPA comment period occurred concurrent with the Notice of Application.<sup>1</sup> DCD issued a Mitigated Determination of Non-Significance.<sup>2</sup> No SEPA appeals were filed. The MDNS includes these conditions:

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<sup>1</sup> Exhibit 20 and WAC 197-11-355.

<sup>2</sup> Exhibit 33.

Conditions and Project Mitigation:

1. The proposal has been reviewed and will be conditioned for Stormwater Control per Kitsap County Code Title 12 and Critical Areas per Kitsap County Code Title 19.
2. The Kitsap County Comprehensive Plan (revised June 2016) requires concurrence with the Transportation Element. The application has been reviewed for consistency with these elements, and requires the following:

Traffic and Right of Way Mitigation:

The Conditions, as listed below, are required pursuant to SEPA Substantive Authority (KCC 18.04.200.D):

1. A transit stop will be provided at the northwest corner of State Highway 104 and Lindvog Road NE, including off-site improvements for pedestrian access to the stop, pending WSDOT approval. The access will be a 5-foot concrete or asphalt path that may be located up against the existing curb. An allowance for the planting strip is not required.
2. If WSDOT denies the transit stop location at a later date, or Kitsap Transit chooses to revise their condition to allow the transit stop in front of the development, then the offsite improvement will not be required. However, any transit improvements that would be required on the project frontage of Lindvog Road NE will be addressed with the Site Development Activity Permit submittal, along with demonstration of meeting off-site wetland buffers.

**1.4 Notice.** Under KCC Title 21, Land Use and Development Procedures, DCD gave the required public notice for the application and hearing.<sup>3</sup> No notice concerns were raised.

**1.5 Public Outreach.** Although not a KCC requirement, the developer held a community meeting on January 23, 2018 in Kingston. As addressed in the Staff Report, DCD prepared a matrix which summarized the comments and provided responses to concerns raised.

**1.6 Hearing.** The Hearing Examiner considered the proposal at an April 9, 2018 open record public hearing. DCD, through Ms. Roberts, summarized the project. As conditioned, DCD found the proposal consistent with the KCC and recommended approval. Applicant and citizen testimony followed.

**1.6.1 Applicant Testimony.**

The Applicant, through Mr. Clarke, confirmed its concurrence with DCD's presentation and the Staff Report, including the proposed conditions. The Applicant is a small local builder. The company has been building across the water for the past decade; this is its first Kitsap Peninsula project. The company's approach is to work with the community and local jurisdiction to address concerns and requirements. Consistent with the approach, the developer voluntarily scheduled a community meeting, attended by 100-200 neighbors. The developer used input to make changes, including addressing a Kingston Ride stop and improving trail access/connections.

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<sup>3</sup> Exhibits 20, 49 and 50.

The Applicant stated the Staff Report's comment response matrix was complete, with the project addressing all code provisions. The builder's goal is to make the project fit within the existing community. Transportation mitigation, buffers, and trail connections were addressed to help accomplish that. The parking space reduction request is based on neighborhood walkability, bus transit, and ferry proximity. The Kingston-Seattle foot ferry will go into service this summer, and is a 10-12 minute walk from the project, as Exhibit 9 addresses. While parking is adequate, the project will attract buyers with less reliance on car ownership. In response to an Examiner question on the planned foot ferry, Mr. Clarke responded that project resident ferry use is a high likelihood, given Seattle housing costs coupled with the 20-minute ferry ride to the City. While aware that the parking reduction could limit the market segment, the project will be in high demand due to those who desire the neighborhood's lifestyle benefits. Also, the company has built projects across the water with similar parking requirements, and not had issues.

### **1.6.2 Public Testimony.**

Ms. Moore, a Kingston resident, raised three primary points. She first addressed the need for more parking. Residents can walk to many services, including the passenger ferry. But, it is not practical to live in North Kitsap without a vehicle. While Kitsap Transit works to improve service, area bus service remains insufficient. Most households will have at least one car per adult. The number of parking spaces needed should not be underestimated and there is not a basis for making a reduction. Also, while she cannot speak for the entire Village Green governing body, as a Commission member, parking agreement approval is unlikely. On days when they have 200 people in the building, parking is fully utilized. Second, as raised at the community meeting, there is a need for ADA units. Perhaps one building could have elevators to eliminate need for stairs. Three, trail connectivity is a matter of considerable community importance. Trails leading west toward Barrett Street and east toward Village Green should be prioritized. Ms. Moore lives about 2.5 miles from the project and since 2001 has been very active with the group that works with the Commissioner for the District and the Citizens Advisory Council to oversee trails. Ms. Moore's written comment was entered into the record as Exhibit 54.

Ms. Skalica, who moved to Kingston Hill with her husband last June, testified. She supports growth and realizes that with the ferry coming, the area will become more appealing. While the neighborhood is wonderful, challenges are present, including infrastructure adequacy. Concerned about resolving these issues, she attends Home Owner Association ("HOA") and County Council meetings. She has grave concerns about project timing, and is not sure the area is ready for the coming impacts. The bus system is not sufficient and pedestrian improvements are needed. There are no sidewalks on Barber Cut Off Road and she would like to see sidewalk funding. While she believes in connectivity, and wants to see a trail, she is concerned about increased pedestrian traffic through her property. As the ferry comes in, along with more families with children, school children will increasingly use the trail. Also, she has been dealing with a lack of HOA bylaws, so asks the Applicant to provide bylaws so the HOA can avoid problems her HOA has had to deal with.

Mr. Coviello from Kitsap Transit testified to support the project. The Applicant has been working with the agency to improve transit. Kitsap Transit supports efforts for a new bus stop along Highway 104, and is establishing a bus route to connect Poulsbo to Kingston.

Ms. Martin, Kingston Chamber of Commerce President, lives about 1.5 miles from the site, and supports the project. Downtown businesses have struggled as they lack adequate supporting density. She is a Village Green Community Center Board member and believes the Board is unlikely to support a parking agreement. However, she also believes the area will become less reliant on the automobile, with greater reliance on walking. The coming foot ferry to Seattle will change the whole picture locally and she expects project residents will use it.

Mr. Scholl, who lives just to the south along the water, was concerned about impacts from the stormwater detention approach on his wetlands. These wetlands are fed by underground streams and surface water, which likely dissipate along the shoreline. He asked about the filtration process, and whether there will be chemical run off. He is concerned about odors if the system drains without filtration to his property. While not certain on whether this would occur, he wanted further information on the issue. On parking, he stated that is fine if drainage is adequately addressed. Otherwise, he supports the project.

Ms. Gordon, a Kingston business owner, Kingston Chamber Board member, and Kingston resident of 15 years living along Marshall Lane, supports the project. She has no concerns with the site's proximity to her home. She was happy to hear about the six-foot fence the project has incorporated. She was impressed with the developer's community meeting discussion on how the project would fit within the surrounding environment, including the thought and detail which went into the presentation. As a business owner, she stated the project is needed for growth. As a brick and mortar business owner in downtown Kingston, she emphasized the need for more residents to help local businesses thrive.

### **1.6.3 Applicant Responses to Public Comment.**

Mr. Longford, of N.L. Olson & Associates, stated that stormwater management will follow Title 12 requirements, with on-site detention and release at existing conditions rates. He is not familiar with the off-site wetland identified in comment, but expects it would be too far away to be affected. Also, discharge does not flow in that direction and will be through an existing drainage course and pipe system to the Bay. The water will be cleaned on site through filtering and bioretention.

Mr. Clarke emphasized that there is a requirement to create an HOA, and it will have bylaws and CC&Rs. Specifically, there will be CC&Rs related to the parking reduction. Three specific items were committed to. Non-unit parking spaces are restricted to operable passenger vehicles, and vehicle maintenance there is prohibited; there is a limit on parking for over 24 hours without HOA permission and the HOA can remove the vehicle; each garage has one parking space, which must be kept clear to accommodate a vehicle. Non-unit spaces are reserved primarily for guests. Mr. Clarke addressed the improvements to sidewalk connectivity, to help with pedestrian access to schools to the west. There will be access on James Lane, which runs north/south to Kingston Road. This creates a connection point so pedestrians can walk down a less traveled roadway, compared with Lindvog Road. Mr. Clarke hoped an agreement could be worked out with Village Green, maybe not during peak times, but noted DCD recommended approval without an agreement.

Mr. Holmes testified that the process to engage the community and obtain comments was voluntary, and not typically done. However, their approach is to engage the community early on to see how plans can be adjusted. That occurred here, with several adjustments made. Mr. Holmes identified several Comprehensive Plan policies the project follows. LU Policy 6 encourages transit-oriented development and reducing single-occupancy vehicle use. LU Policy 15 supports non-motorized trails. Transportation Goal 1 supports multi-modal transit. The project encourages ride share and provides for a transit stop. Kingston Policy 6 supports compact residential development. The project is a great example. It could have more density, but is in keeping with this policy. With the PBD, more open space/amenities are provided than other projects might have which did not go through the PBD process. On parking, the KCC allows a 25% reduction, but the Applicant is only asking for 15%.

Mr. Johnson, who owns the project, has been developing Kitsap County properties since 1987 and is a 34-year resident. On one of his projects from 12 years ago, the 55-unit Kingston Meadows, similar concerns were raised on parking and density. It has been a vibrant neighborhood and the approach has worked, although at the time it was a new idea for Kingston. He referenced two other nearby projects he worked on with the Housing Authority. Both had densities higher than some adjacent projects, but supported Kingston's affordable community. The KCC would allow 210 units, so the project is less dense than it could be. This project enables home ownership, supports the fast ferry, and supports the commercial area. He cannot imagine a better location. The density provided supports the Commons, includes recreational amenities, and helps improve area walkability. As someone who has been developing for over three decades including through the economic downturn, he supports the builder, which was selected because of its reputation and past projects, including ones with this type of reduced parking ratio. If one looks at projects being developed near light rail, those do not have parking ratios anywhere near what is proposed here.

#### **1.6.4 DCD Clarifications.**

DCD, through Ms. Roberts, provided additional information and clarification. On parking, as the Applicant indicated, CC&Rs must address the parking restrictions. Once the CC&Rs are developed, the County would not have jurisdiction over them, but they are required. The KCC allows a 25% reduction in parking spaces; the Applicant is requesting 15%. DCD believes the Applicant has demonstrated adequacy even without shared parking, given the amenities within walking distance and nearby transit options.

On the ADA, this is not an element the County has authority to impose. Individual unit designs are left up to the Applicant.

Trail connections were a significant component of project review. An existing trail connection runs along the north property line, east to west, but it is not formalized. There are no easements to the west to make the connection. If that can be formalized and easements secured, the connection will be built along the north or west property line, depending on where the easements are. If the trail is not formalized, easements are reserved, so the trail can be built.



As the Applicant mentioned through the community meeting, connectivity and sidewalk concerns were addressed. Along the south property line to James Lane, there is a perfect spot to allow a pedestrian connection, running south to Kingston Road. Barber Cut Off Road does not have sidewalks, but West Kingston Road does. This puts pedestrians onto a road less traveled than Lindvog. Also, there will be six-foot sidewalks along the entire project frontage along Lindvog. Frontage improvements will meet ADA requirements. This further improves connectivity, and leads to an intersection with a crosswalk. An HOA is required. This will be reviewed with the final plat. The project has been conditioned for compliance with Title 12, which will be reviewed with the SDAP or Site Development Activity Permit. Preliminary requirements for stormwater detention have been approved; design will be finalized during SDAP review. The Kingston Design Standards support transit-oriented development. The trail and connectivity are addressed through Condition 4. The comment matrix also addresses this issue.

**1.7 Agency Comment.** Agency comment was received regarding regulatory compliance. As long as code requirements and project conditions are followed, there were no objections to approval.

### **1.8 Zoning/Plan Designations.**

**1.8.1** The Comprehensive Plan designation is Urban High Intensity Mixed Use<sup>4</sup> and the zoning designation is Commercial.<sup>5</sup> In this zone, a minimum of 28 units is required (2.84 net acres x 10); a maximum of 212 units is allowed (7.08 gross acres x 30).<sup>6</sup> At 140 units, the project meets density requirements. Also, the project does not exceed the 35' height limit or the 85% maximum impervious coverage limit.<sup>7</sup> The 14 three-story buildings housing the individual lots/units will be set back 20 feet on all sides except the north, where the setback is ten feet. The units themselves will be zero-lot line parcels.

**1.8.2** The Comprehensive Plan provides for compact, attractively designed urban development supported by an adequate transportation system, pedestrian amenities, and other urban services. It emphasizes maximizing options for non-motorized travel and supporting interconnectivity. As the Staff Report details, the project is consistent with the Plan, including policies addressing land use, housing, transportation, capital facilities, economic development, design, parks, trails and open space.<sup>8</sup>

**1.8.3** Surrounding zoning includes Urban Low, Urban Medium, Commercial, Neighborhood Commercial, and Industrial. Neighboring uses include single-family residences, a skate-park, commercial development, and undeveloped lots.

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<sup>4</sup> Exhibit 42.

<sup>5</sup> Exhibit 39.

<sup>6</sup> KCC 17.420.054.

<sup>7</sup> KCC 17.420.054.

<sup>8</sup> Exhibit 51, pgs. 6-8. *See e.g.*, Land Use Goals 1-3 and Land Use Policies 2, 3, 6, 11, 12, 14 and 15; Housing Goals 4 and 6, and Housing Policies 11 and 23; Transportation Goals 1 and 9, and Transportation Policies 2, 3, 35, and 36; CapF and Utilities Goals 2, 3, and 5, and CapF and Utilities Policies 4, 8 and 16; Kingston Economic Development Goal 2; Kingston Parks, Trails and Open Space Goal 7, Kingston Transportation Goal 12, Kingston Land Use Goal 16, and Kingston Policies 6, 7, 19, 38, and 45.

**1.9 Site Physical Characteristics.** The site is 7.08 acres. The most southerly lot contains a single-family residence and detached garage, which will be demolished. Gradually sloping north to south with an average 5% grade, the rectangular lots border Lindvog Road NE's west side.

Around 2002 to 2003 the majority of the second growth trees were logged. Today the site is vegetated with a mix of deciduous and coniferous trees and a typical shrub layer. A large portion is covered with invasive Scotch Broom and Himalayan blackberry. At the site's northwest corner is a small manmade pond, likely fed by diverting water from the adjacent lot's wetland. The wetland has been field flagged and professionally surveyed, and requires a 50 foot setback and additional 15 foot building setback. The Applicant requested a 25% buffer reduction. With buffer averaging and mitigation planning, the buffer was administratively reduced to 40 feet, plus an additional 15 foot building setback. The buffer averaging and reduction request was needed to accommodate a portion of the existing trail/proposed trail and roadway. The site is within a mapped Category I Critical Aquifer Recharge Area,<sup>9</sup> but the use is not a higher risk use the KCC requires additional review and mitigation of.

**1.10 Utility and Public Services.**

- **Water:** Kitsap PUD No. 1
- **Power:** Puget Sound Energy
- **Sewer:** Kitsap County
- **Police:** Kitsap County Sheriff
- **Fire:** North Kitsap Fire and Rescue
- **Schools:** North Kitsap School District No. 400

**1.11 Access and Transportation.**

Plat access is from two points along Lindvog Road NE, a paved county-maintained public right-of-way to the east. There are three internal access roads proposed, which will be privately maintained. Should the Applicant or its successors choose to dedicate them to Kitsap County, the roads are subject to further Kitsap County Development Engineering review. All improvements necessary to bring the roads to the then current Kitsap County standards shall be done at no expense to the County before being accepted into the Kitsap County road system for maintenance (*see* Condition 53). The internal roads will be throughout the development providing access and circulation to individual units. Curb, gutter and sidewalks will be constructed along internal streets and paved pedestrian access is provided throughout the development. Garage openings are oriented to face each other and are located on internal access roads. Parking is located along the internal access roads on the sides and rear.

Pedestrian pathways are proposed throughout the development to accommodate safe pedestrian access. A pedestrian pathway along the south boundary will allow access from the site to James Lane NE. This will allow pedestrians to access the existing sidewalk along NE West Kingston Road via a less traveled County right-of-way, rather than walking south along Lindvog

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<sup>9</sup> Exhibit 41.

Road NE to NE West Kingston Road. Sidewalks and ramps will conform to ADA requirements per Washington State Department of Transportation standard plans at the time of construction (Condition 44).

Frontage improvements along Lindvog Road NE include a six-foot paved sidewalk, four-foot planting strip with street trees, street furniture, and lighting. An ADA compliant pedestrian walkway will be constructed connecting the proposed sidewalk along Lindvog Road NE to the signaled intersection at State Highway 104 and Lindvog Road NE. A transit stop is planned at the northwest corner of Highway 104 and Lindvog Road NE.

An existing non-formalized community trail through the property connects Lindvog Road NE to the parcels to the west. The Kingston Community Trails Plan is being considered for inclusion into the County Non-Motorized Facilities Plan. This Plan shows an "existing open trail" on the Kingston Map that crosses private property that may or may not be open to the public. DCD recommended, and the Non-Motorized Facility Citizens Advisory Committee agreed, the trail graphic will be deleted and a "conceptual recreational trail" added. Alignment is not specified and may require agreements with private property owners. To allow for the trail, the project has been conditioned for trail connection construction if an agreement is reached before final plat recording, or for reservation of trail alignments for future trail establishment (Condition 4).

Typically, 280 parking spots would be constructed. (For multi-family uses, 1.5 parking spaces per unit plus 0.5 spaces per unit on the street or set aside are required.)<sup>10</sup> The Applicant has requested a 15% reduction to 238 spaces. The project would include one space per unit (140), plus 98 off-street spaces.<sup>11</sup>

The director may authorize a reduction up to twenty-five percent to the amount of required off-street parking if a project proponent demonstrates that, due to the unusual nature of the proposed use, it is reasonable that the off-street parking required by this section exceeds any likely need, or that trip demand reduction programs or public transit availability serves to further reduce parking demand.<sup>12</sup>

Based on several factors, including location within an area planned for increased multi-modal transit, DCD found the 15% reduction met these criteria. A Kingston-Seattle foot ferry is planned, which will be a short walk away, followed by a 20-minute ferry ride. Kitsap Transit supports the project, and an adjacent transit stop is planned. The project is within an area being designed to be pedestrian friendly, with shops and services within walking distance.

CC&Rs (Covenants, Codes & Restrictions) will require residents to rely on their garage for parking, rather than the parking designed primarily for guests. This includes limiting the time a vehicle may be parked in the 98 off street spaces, and prohibiting use of stalls for other than motor vehicle parking. (See Conditions 17 and 18). The developer stated the units would likely attract buyers who are less car-dependent, and in doing so may limit the market segment interested in the

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<sup>10</sup> KCC 17.490.030.

<sup>11</sup> 30% of required spaces may be compact; the Applicant is proposing that 41 spaces (17%) be compact. KCC 17.490.020(H)(9).

<sup>12</sup> KCC 17.490.030(A)(1).

units. While the project proponent hopes for a shared parking agreement with the park facility across the street, this is not being relied upon to support the request, and at the hearing DCD requested addition of a condition clarifying same (Condition 18A).

There was public comment opposing the reduction, largely due to concerns about overflow parking. Certainly, parking feasibility does hinge on the owner(s) of each unit requiring use of just one car on site. The Applicant was up front that this may limit the market segment interested in the units. However, due to a range of factors, including direct ferry service within walking distance to Edmonds, and the planned foot ferry to Seattle, coupled with nearby commercial services, there are features attractive to potential residents who are able to limit their car dependence.<sup>13</sup> In total, the Examiner finds the reduction is consistent with the KCC, which does allow for an up to 25% reduction. However, as the area builds out, this is an issue to monitor.

**1.12 Stormwater.** Stormwater quantity and quality controls are provided from underground detention vaults, bio-retention cells, and infiltration reservoirs. The project has been conditioned for compliance with applicable stormwater requirements (*see* Conditions 25-39).

### **1.13 Landscaping, Open Space, Buffering, and Recreational Amenities.**

Fifteen percent of the site (46,261 square feet) must be in common open space, with 5% (14,963 square feet) in recreational open space, including recreation amenities of 390 square feet for every 20 units or 7 amenities equaling 2,730 square feet. With 47,706 square feet of common open space and 35,000 square feet of recreational open space, including seven amenities totaling 3,323 square feet, these requirements are met.<sup>14</sup> Fifteen percent of the site must be landscaped, or 46,261 square feet.<sup>15</sup> With 101,774 square feet of landscaping, this requirement is exceeded. Common open space is along the perimeter and consists of required landscaping buffers enhanced with native vegetation, critical areas and their buffers, and a potential trail connection and pedestrian access connection to James Lane NE.

Recreational open space is in the middle of the development and includes amenities to enhance recreational opportunities for residents. Those amenities consist of age-appropriate play equipment for both 2-5 year-old children and 6-12 year-old children, a picnic shelter, community barbeque area, two patios with seating, and a wood-framed habitat viewing platform in the site's northwest corner. Covered bicycle parking is centrally located. The Kingston Design Standards require pedestrian amenities/street furniture (1 per 100 feet of property frontage or 14 pieces of furniture). The project includes 14 pieces of approved street furniture, including lighting and benches.

Project frontage along Lindvog Road NE consists of front yard area. Landscaping includes streets trees, lawn, and entrance landscaping for each unit. Roadside and setback buffering is provided, consistent with KCC 17.500.027(A). On the other three sides the following buffering is provided:

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<sup>13</sup> See Exhibit 9.

<sup>14</sup> Exhibit 51 (Staff Report), p. 37, provides detail.

<sup>15</sup> KCC 17.500.025.

- South: A six-foot high solid board fence has been incorporated into the conceptual landscape design.
- West: This area will retain the majority of existing vegetation due to the wetland and required buffer area. Mitigation planting is provided.
- North: Properties to the north are zoned industrial and commercial and are heavily wooded and undeveloped. The conceptual landscaping plan includes a mix of trees, shrubs and groundcover along the north property line. When the industrial lot to the north is developed, that property will be required to screen any future incompatible uses abutting the residential neighborhood.

#### **1.14 Performance Based Development Standards, Ch. 17.450 KCC.**

**1.14.1 PBD Requirements.** PBD requirements are designed to improve project design. A PBD allows clustering to:

preserve open space, encourage the creation of suitable buffers between differing types of development, facilitate the residential densities allowed by the zone, provide for increased efficiency in the layout of the streets, utilities and other public improvements and to encourage the use of low-impact development techniques and other creative designs for the development of land.<sup>16</sup>

A PBD may be used to modify lot size, width and depth; height; and setbacks; but not densities.<sup>17</sup> As each of the 140 units is a lot, 10-20 foot setbacks would normally apply. While the buildings housing each unit comply with standard setbacks, the individual units require PBD approval, as they do not have standard setbacks.<sup>18</sup>

A PBD must meet various requirements addressing transportation, access, pedestrian circulation, open space, and recreational amenities. On transportation, a PBD must have "adequate pedestrian and vehicle access and parking commensurate with the location, size, density and intensity of the proposed development," access cannot be "unduly detrimental to adjacent areas," and increases in traffic must be considered.<sup>19</sup> In addition, there must be "adequate road access, connected road network, safe pedestrian access, and emergency vehicle access."<sup>20</sup>

A traffic engineer analyzed transportation issues and identified impacts have been addressed through project mitigation and design, including conditions requiring frontage improvements, internal sidewalks and other right-of-way improvements, and transportation impact fee payment. As addressed in Finding 1.11, access (including for vehicles, bicycles, pedestrians, and emergency vehicles) and parking have been adequately addressed. The parking spaces

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<sup>16</sup> KCC 17.450.010.

<sup>17</sup> KCC 17.450.010.

<sup>18</sup> Exhibit 51 (Staff Report), p. 4 provides further detail on the request.

<sup>19</sup> KCC 17.450.040(A)(1).

<sup>20</sup> KCC 17.450.040(A)(2).

provided follow KCC 17.490.030.<sup>21</sup> Also, as addressed in Finding 1.11, "[a]dequate pedestrian circulation facilities" are provided, which are "durable, serviceable, safe, convenient to the buildings and separated by curb or other means from the vehicle traffic facilities."<sup>22</sup>

As addressed in Finding 1.13, the common open space meets requirements. The open space "location, shape, size and character" is suitable for the plat; exceeds 15% of the plat's gross acreage; at 47,706 square feet total, open space areas exceed 500 square feet; and the areas are appropriate for the plat's "scale and character," topography, and density.<sup>23</sup> The maintenance requirements, including development of an association to ensure same, meet PBD requirements.<sup>24</sup>

The recreational areas must be at least 5% of the site's gross acreage, all areas must exceed 500 square feet unless "the area provides a reasonable functional or aesthetic benefit to the residents of the PBD."<sup>25</sup> These requirements are met. Also, the areas are outside perimeter buffers; will be commonly owned and available for the residents' use; and covenants will provide for "perpetual maintenance."<sup>26</sup> The amenities are "centrally located," "clearly visible," and consistent with grade requirements (active recreational areas on a 5% grade or less).<sup>27</sup>

**1.14.2 PBD Specific Findings.** Besides addressing the PBD code requirements, the Examiner must find these conditions exist:

- A. The design of the PBD meets the requirements of this section, other sections of the county code and the goals and policies of the Comprehensive Plan and the site is adequate in size and character to accommodate the proposed development;
- B. The design of the PBD is compatible with neighboring conforming land uses. An assessment of compatibility shall include, but not be limited to, the consideration of association with adjacent land uses and the proposed project's effects on existing views, traffic, blockage of sunlight, and noise production;
- C. If the development is phased, each phase of the proposed development shall meet the requirements of this chapter;
- D. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;
- E. The proposed and/or existing public facilities and utilities are adequate to serve the project; and

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<sup>21</sup> KCC 17.450.040(A)(3).

<sup>22</sup> KCC 17.450.040(A)(4).

<sup>23</sup> KCC 17.450.040(B) (1-3).

<sup>24</sup> KCC 17.450.040(B)(4).

<sup>25</sup> KCC 17.450.040(C)(1).

<sup>26</sup> KCC 17.450.040(C)(1).

<sup>27</sup> KCC 17.450.040(C)(2).

F. The establishment, maintenance, and/or conduct of the use for which the development plan review is sought will not, under the circumstances of the particular case, be detrimental to the health, safety or welfare of persons residing or working in a neighborhood of such use and will not, under the circumstances of the particular case, be detrimental to the public welfare, injurious to property or improvements in said neighborhood, or contrary to orderly development.

G. Innovations and/or public benefits shall be commensurate with the code modifications proposed.<sup>28</sup>

The plat follows these criteria. As addressed above, the PBD meets all code requirements. As addressed in Finding 1.8.1, the project follows the Comprehensive Plan, which provides for urban development at this location, with adequate supporting infrastructure, attractively designed development, and supporting urban amenities.

As mitigated, PBD design is generally compatible with neighboring uses. The question of densities for the area was addressed during the legislative process, and while the zoning allows greater densities, the Applicant's project is within the range of what is allowed. Also, while there are larger single family lots in the immediate area, as mitigated, the project is consistent with neighborhood development patterns, which are moving towards increased development intensities.

The open space, wetland protections, landscaping and recreational amenities improve overall aesthetics. A traffic engineer analyzed transportation impacts. There will be an increase in traffic, but those impacts are addressed, as noted above. With the mitigation proposed, the transportation system is adequate to accommodate the project. As also detailed above, public facilities and utilities are adequate to serve the project. Noise requirements will be met, including during construction, and noise will be consistent with the types of uses the area is planned for. Any phasing which occurs with the project must meet proposed conditions and comply with the KCC. No sunlight blockage concerns were raised.

The plat/PBD design will provide attractively designed residential development consistent with zoning code requirements. With mitigation, the impacts will not be "detrimental to the health, safety or welfare of persons residing or working in a neighborhood," and will not "be detrimental to the public welfare, injurious to property or improvements in said neighborhood, or contrary to orderly development."<sup>29</sup>

This area is planned for urban densities. Under GMA, it is the state and local policy for residents to live proximate to employment, and at urban densities in areas designated for same. The project follows that policy. As it is mitigated and adequately supported by urban infrastructure, the project will not be detrimental to the public welfare or injurious to nearby property.

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<sup>28</sup> KCC 17.450.050.

<sup>29</sup> KCC 17.450.050(F).

The infrastructure provided is adequate to support the proposed use. Given the open space and recreational amenities provided, along with the attendant infrastructure improvements, the benefits provided are commensurate with the code modifications proposed. Allowing zero-lot-line development is an efficient use of land, which provides needed housing in a well-designed setting which meets or exceeds code requirements. PBD requirements have been met.

**1.15 Single-Family Subdivision/Development Standards - KCC 17.420.037.** Single-family subdivision development standards are met.

- **Sidewalks.**<sup>30</sup> *See* Finding 1.11.
- **Public Streets and Connectivity.**<sup>31</sup> Connectivity is addressed in Finding 1.11. The plat's internal streets are private and dedication is not being required. However, the option of dedication remains. Public Works determined that connecting this large development to underdeveloped county rights-of-way is not appropriate. Lindvog Road NE is designated as a major collector and was designed for additional capacity.
- **Utility Connectivity to Abutting or Contiguous Properties.**<sup>32</sup> Public Works has reviewed the project and found the approach consistent with its requirements.
- **Landscaping Requirements.**<sup>33</sup> *See* Finding 1.13.
- **Off-Street Parking.**<sup>34</sup> *See* Finding 1.11.

**1.16 Urban Standards – KCC 16.24.040.** KCC urban standards requirements are met.

- **Access.** *See* Finding 1.11.
- **Public Transit.** *See* Finding 1.11.
- **Non-Motorized Facilities.** *See* Finding 1.11, which details sidewalk/trail improvements which will connect to other existing and adjacent developments. Clustered mailboxes are proposed. The mailbox is centrally located with adjacent parking and is on a large paved pad that provides adequate horizontal and vertical clear zones.<sup>35</sup>
- **Off-Street and On-Street Parking.** *See* Finding 1.11.

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<sup>30</sup> KCC 17.420.037(A).

<sup>31</sup> KCC 17.420.037(B).

<sup>32</sup> KCC 17.420.037(C).

<sup>33</sup> KCC 17.420.037(D).

<sup>34</sup> KCC 17.420.037(E), *see also* KCC 17.490.030.

<sup>35</sup> *See e.g.*, KCC 16.24.040(C)(1)(d)



- **Fire Protection.** The Kitsap County Fire Marshall's Office reviewed the application for compliance with fire codes and has not required additional access other than what is proposed (*see e.g.*, Conditions 57-69). Notice was also sent for North Kitsap Fire & Rescue, but no comment was received.
- **Landscaping Requirements.** *See* Finding 1.13.
- **Utilities.** *See* Finding 1.10.
- **Recreation.** The plat will include recreational open space amendments consistent with subdivision and PBD standards. The recreation facility, with play equipment for children, will be centrally located. *See* Finding 1.13.

**1.17 Appropriate Provisions for Facilities and Improvements - KCC 16.04.080.**

Appropriate provisions for facilities and improvements have been made consistent with KCC 16.04.080, to ensure the plat serves the public interest.

- **Code/Plan Consistency.** The project, as conditioned, follows the Comprehensive Plan and County Code. Both provide for attractive urban development adequately supported by urban facilities and services. The Staff Report addressed Plan policies, which outline these objectives. No policy or code provision was identified which the project would contravene.
- **Adequacy of Access.** Finding 1.11 addresses access. County engineering staff and fire personnel have reviewed the proposed access to ensure its adequacy.
- **Safe Walking Conditions.** Finding 1.11 addresses the provision for and interconnection of sidewalks to ensure safe walking conditions are in place.
- **Lot Configuration.** Consistent with KCC requirements, the lots run at right angles to the street the lots face.
- **Home Owner Association.** HOA establishment is required. Proof that the HOA is registered with the Secretary of State is required for submittal with the Final Plat application. Covenants, Conditions and Restrictions (CC&Rs) are also required with final plat submittal. The HOA shall maintain private roads and storm facilities (Conditions 36 and 53).

With the proposed mitigation, and as outlined in the application materials and record, the proposed PBD/plat has adequate infrastructure and facilities to support its approval, and follows County Code requirements.

**1.18 Design Standards: Multifamily Development Design Criteria, Ch. 17.470 KCC; Urban Village Center Design Criteria, Ch. 17.480 KCC; Design Standards for the Community of Kingston; and, KCC 17.420.030 (landscaping/buffering).**

The project is consistent with the Multifamily Development Design Criteria.<sup>36</sup> Projects are to minimize fencing and walls which would discourage pedestrian use or isolate neighborhoods.<sup>37</sup> The project has a fence along the south boundary to provide added screening to neighboring residences, but the project is oriented towards Lindvog Road NE, and there are no barriers to discourage use of sidewalks and paths. Adequate lighting, screening, and pedestrian access is to be provided to support facilities.<sup>38</sup> The project is consistent. It includes a centrally located mailbox and play yards. Lighting will follow the Design Standards for the Community of Kingston. Transit improvements are off-site and will be designed consistent with Kitsap Transit requirements. Projects are to minimize impacts to existing topography and vegetation.<sup>39</sup> The project is retaining a portion of the existing perimeter vegetation. The site was cleared of significant trees, but vegetation removal and grading will still be necessary to complete the project and supporting infrastructure. Open space and landscaping requirements are met, as Finding 1.13 addresses.<sup>40</sup>

As a project within Kingston's downtown, the proposal must follow the Design Standards for the Community of Kingston.<sup>41</sup> The project has been conditioned to require consistency (Conditions 8, 10, 16, and 19). The standards "are intended to promote Kingston's small town character and support local economic vitality while accommodating the impact of existing regional transportation and tourism issues."<sup>42</sup> To achieve this goal, the standards address design issues, creating a pedestrian friendly neighborhood through landscaping, improving walkability, increasing transit options, and strategies to de-emphasize the automobile, such as through parking location. The project is designed to achieve these objectives, as set forth in Findings 1.13 (landscaping and open space), Findings 1.11 and 1.13 (pedestrian paths), Finding 1.11 (transit improvements), and Finding 1.18 (project design). These standards overlap with design objectives addressed with Urban Village Center requirements.

The project is not within the Urban Village Center zone, but as an Administrative CUP is required, certain sections apply.<sup>43</sup> These criteria have been met. To minimize the impacts of driveways and parking lots on pedestrians and neighboring properties, the project orients buildings toward the common open space areas, garages are on streets that mimic alleys, sidewalks are within the open space areas to avoid vehicle conflicts, and non-garage parking is at the perimeter and back.<sup>44</sup> Screening is not required for support facility needs as no support facilities are

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<sup>36</sup> The proposal does not include dwelling-specific yard in each ownership, so is considered a multi-family use. See KCC 17.110.240 and .250.

<sup>37</sup> KCC 17.470.040.

<sup>38</sup> KCC 17.470.050.

<sup>39</sup> KCC 17.470.060.

<sup>40</sup> KCC 17.470.070, .080. See also Exhibit 31.

<sup>41</sup> KCC 17.420.060(A)(5), see also KCC 17.410.044, FN 30.

<sup>42</sup> Exhibit 55, Introduction.

<sup>43</sup> KCC 17.470.020(A).

<sup>44</sup> KCC 17.480.160.

proposed.<sup>45</sup> Design scaling is not needed as the project faces no neighborhood with a different scale.<sup>46</sup> To the west and south are one and two story homes, which are separated with vegetation and buffers. To provide privacy, buildings are off-set and vary in size.<sup>47</sup> Unit fronts are oriented toward common open space or project frontage along Lindvog Road NE, and project design includes modulation and landscaping.

To address design concerns, elements such as balconies, porches, dormers and articulated roof design are included.<sup>48</sup> Buildings include modulation, multiple steepened rooflines with single and stepped gable configurations. Windows vary in size and will incorporate integral grid patterns to simulate multi-pane windows. Each unit has a front porch/entry with transom windows above the entry doors and decorative wall mounted entry lights. Decorative moldings and brackets have been incorporated into the building design.

The development provides clearly defined entries to each unit.<sup>49</sup> Each unit has a paved pathway to the front entry. Each entry will be provided a decorative wall-mount fixture providing the minimum required light levels. All sidewalks will be ADA compliant.

Window design was considered during the review process.<sup>50</sup> Each unit was proposed with windows having a height of one and one-half times their width. During project review, the Applicant was asked to consider other guidelines, including ground floor windows with a greater vertical height than upper story windows (KCC 17.480.225(B)(5)). The Applicant indicated it has provided the desired window heights but on the second story, which are associated with the primary living space. The lower floor includes a bedroom facing the front of the buildings, and a large window is not desirable privacy-wise. Consistent with DCD's finding, the Examiner finds the approach consistent with this criterion, when balanced with the other criteria.

The project addresses the building exterior design criterion.<sup>51</sup> The design includes fiber cement products with varying patterns including shingle siding, lap siding, panel and batten sections painted in a contrasting tone. Colors include warm earth and wood tones of subtle tans, medium and dark warm grays and light cream colors. The project has been conditioned to comply with the Design Standards for the Community of Kingston (Condition 16). On signage, the project must comply with Ch. 17.510 KCC, Sign Code.<sup>52</sup>

Finding 1.13 addresses compliance with landscaping and buffering requirements at Ch. 17.500 KCC, which KCC 17.420.030 requires consistency with. The project is conditioned to comply with exterior lighting requirements (Condition 8), does not have roof mounted equipment or service/outdoor storage areas, each unit will have its own trash service, and solid waste requirements will be met (Condition 70). Based on citizen comment raising concerns on trash

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<sup>45</sup> KCC 17.480.180.

<sup>46</sup> KCC 17.480.190.

<sup>47</sup> KCC 17.480.200.

<sup>48</sup> KCC 17.480.210.

<sup>49</sup> KCC 17.480.220.

<sup>50</sup> KCC 17.480.225.

<sup>51</sup> KCC 17.480.230.

<sup>52</sup> KCC 17.480.240.

service provider access, a sentence was added to Condition 70 confirming the SDAP will not issue unless service provider requirements are met. This ensures solid waste does not become a health/safety and aesthetic concern. Access and circulation requirements are met, as detailed in Finding 1.11, and the two access points along Lindvog Road are over 300 feet apart. Parking requirements are met, as detailed in Finding 1.11.

### **1.19 Administrative Conditional Use Permit.**

Administrative CUP approval is only granted when "consistent with the Comprehensive Plan," all KCC requirements are met, "[t]he proposal is not materially detrimental to existing or future uses or property in the immediate vicinity," and the proposal is:

compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.<sup>53</sup>

As addressed in Finding 1.8.2, the project is consistent with the Comprehensive Plan. And, as detailed above, all KCC requirements are met. The proposal presents no material detriment to existing or future uses in the immediate vicinity, and complements them. The findings above address both material detriment and neighborhood compatibility. While parking could create compatibility concerns, Finding 1.11 addresses its adequacy. Similarly, with the landscaping, recreational amenities, providing for a trail connection, and frontage improvements, the project fits in with properties in the immediate vicinity. Details on these features are addressed in Findings 1.11, 1.13, and 1.14. The Examiner finds the administrative CUP criteria have been met.

## **2. CONCLUSIONS OF LAW**

**2.1** The Hearing Examiner reviews and issues final decisions for preliminary plats and PBDs.<sup>54</sup> While Title 17 includes language on Board PBD approval,<sup>55</sup> Title 21, which governs County land use review procedures, provides for Hearing Examiner review and decision.<sup>56</sup> Where this is a conflict, DCD determines the review process.<sup>57</sup> DCD clarified that under Title 21, the Examiner makes the final decision on the three permits, including the preliminary plat, PBD, and Administrative CUP. If the Administrative CUP were a stand-alone permit, or processed separately, DCD would issue it, but as consolidated review was requested, the Examiner issues the decision.<sup>58</sup>

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<sup>53</sup> KCC 17.540.040(A).

<sup>54</sup> KCC 17.450.020.

<sup>55</sup> KCC 17.450.020; KCC 17.450.050.

<sup>56</sup> KCC 21.04.100, Permit No. 25.

<sup>57</sup> KCC 21.04.020(E).

<sup>58</sup> KCC 21.04.180(A) (addressing consolidated review). *See also* KCC 21.04.180(B) (where not consolidated, "if a higher numbered permit type application is dependent on first obtaining a favorable Type I or Type II decision, the Type I or Type II decision will be processed first or concurrently.").

**2.2** The Hearing Examiner reviews Preliminary Plat applications for consistency with County zoning at Title 17 and County platting requirements, including KCC 16.04.080 General Provisions, KCC 16.24.040 Urban Standards, and KCC 16.40 Subdivisions. These regulations require that plats meet sizing and related requirements (*i.e.*, density, height, and setbacks), and be adequately served with necessary infrastructure and services (*i.e.*, stormwater facilities, sewage, water supply, transportation/pedestrian facilities, landscaping, open space/recreational facilities, and schools). Setbacks may be varied from, as requested here, if PBD requirements at KCC 17.450 are met.

**2.3** The zoning code authorizes the proposed multi-family use at the densities proposed, which are within the range of what is authorized at this location. As addressed in the findings above, Title 17 zoning requirements are met, and conditions are imposed to ensure compliance.

**2.4** The proposal, as conditioned and as the findings address throughout, includes provisions to address impacts on drainage; roads, including adequate access and safe walking conditions; water supplies; sanitary waste; fire protection; landscaping and open space; and other supporting public and private facilities and improvements. As determined in the Findings above, all Title 16 plat requirements are met, so the preliminary plat should be approved.

**2.5** The PBD amenities proposed (*i.e.*, open space exceeding code requirements, including open space recreational areas, along with the pedestrian amenities) warrant the flexibility requested to eliminate side lot setbacks to allow for the zero-lot-line project. As detailed in the findings, all PBD requirements are met, so the PBD request should be approved.

**2.6** As mitigated and proposed, the project follows Comprehensive Plan policies providing for attractively designed urban development adequately supported by urban facilities and services. The project is consistent with the KCC, is not materially detrimental or inconsistent with uses within the vicinity, so meets the Administrative CUP criteria.

**2.7** Given project consistency with KCC requirements and Plan policies, the Hearing Examiner concludes it should be approved.

### **DECISION**

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested Preliminary Plat, Performance Based Development, and Administrative Conditional Use Permit, provided the below conditions are adhered to.

#### **Planning/Zoning.**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The decision set forth herein is based upon representations made and exhibits contained in the project applications 17-04643, 17-04646, and 17-04647. Any change(s) or deviation(s) in such

plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.

3. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the Applicant agrees to promptly bring such development or activities into compliance.

4. This property currently serves as a trail connection to an existing non-formalized neighborhood trail. The developer has agreed to provide a trail connection as part of its development proposal. At this time, the exact trail location cannot be finalized as the formal development of the trail is still ongoing. A trail connection shall be provided by the developer at a location along the north property line and/or along the west property line as agreed upon by the developer and Kitsap County prior to final plat approval. If at the time of final plat approval, trail connection(s) to adjacent private property cannot be established, the developer will not be required to construct the trail as part of site development, but shall reserve easement(s) for the trail alignments within the plat for future establishment of a trail. The trail easement(s) shall be depicted on the face of the Final Plat. If the location of the trail easement(s) is not finalized at the time of recording the Final Plat, language to reserve the easement(s) in their general location shall be placed on the face of the Final Plat.

5. The Applicant shall construct off-site transit improvements, subject to Kitsap Transit approval, at the northwest corner of State Highway 104 and Lindvog Road NE. All work within the State right-of-way is subject to Washington State Department of Transportation (WSDOT) permits and approval. At Site Development Activity Permit (SDAP) submittal, the Applicant shall include the required transit improvements in its design for review. If the transit location on State Highway 104 is denied by WSDOT, then transit improvements shall be required on the project frontage of Lindvog Road NE and design for these improvements shall be included in the SDAP plans.

6. The Applicant shall construct an off-site, five-foot minimum, ADA compliant, paved or asphalt pedestrian path continuing north from the project frontage on the west side of Lindvog Road NE to the intersection of State Highway 104 and Lindvog Road NE to provide for safe pedestrian access to the required transit stop at the northwest corner of State Highway 104 and Lindvog Road NE. The path may be located up against the existing curb. An allowance for the planting strip is not required. If the transit improvement location on State Highway 104 is denied by WSDOT, then transit improvements shall be required on the project frontage of Lindvog Road NE and the off-site pedestrian path would not be required.

7. Details/cut sheets for the proposed bicycle parking rack/structure shall be provided with the SDAP submittal.

8. Artificial outdoor lighting shall be arranged so that the lighting is fully recessed or fully shielded from side view and directed downward and away from surrounding properties. No more than one foot-candle of illumination shall leave the property boundary. Lighting shall be the minimum necessary for safety purposes and be compatible with surrounding properties. Light standards (poles) shall comply with the Design Standards for the Community of Kingston Chapter VII. Provide lighting details/cut sheets at SDAP submittal.
9. Landscaping shall be installed and maintained in conformance with the requirements of Kitsap County Code (KCC) 17.500. Landscaping shall be installed and inspected prior to requesting a final inspection, or guaranteed by means of an assignment of funds or bonded in the amount of 150 percent of the cost of installation.
10. A final landscaping plan is required at the time of SDAP submittal.
  - a. The final landscaping plan shall comply with KCC 17.500 and the Design Standards for the Community of Kingston.
  - b. The final landscaping plan shall include automatic irrigation plans pursuant to KCC 17.500.020.K.
  - c. The final landscaping plan shall include required landscaping at entrances and street trees pursuant to KCC 16.24.040.F.1 and 2.
11. Any and all signage design and location (including exempt signs) shall comply with KCC 17.510, and be reviewed and approved by DCD prior to installation. Signage may require a separate permit.
12. The recipient of any administrative CUP shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the administrative CUP and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the Department at the Applicant's expense.
13. The uses of the subject property are limited to the uses proposed by the Applicant and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not be, and is not to be, construed as approval for more extensive or other utilization of the subject property.
14. Pursuant to KCC 21.04.270 Duration of Decisions, Kitsap County's land use approval for the Preliminary Plat, Performance Based Development, and Administrative CUP is valid for a period of up to five (5) years from the decision date of the preliminary plat consistent with RCW 58.17.140 and .170.

15. Any violation of the conditions of approval shall be grounds to initiate revocation of this Administrative CUP, PBD, and/or Preliminary Plat.

16. At the time of building permit submittal, all structures shall comply with the requirements of the Design Standards for the Community of Kingston for architectural and building design (KDS Chapter IV).

17. CC&Rs shall include restrictions on parking in the common parking areas. Such restrictions shall include limits on the number of days vehicles can be parked and limits on the types of vehicles that can be parked (no RVs, boats, etc.).

18. CC&Rs shall include provisions that require the garages remain clear for vehicle parking at all times.

18A. Pursuant to KCC 17.490.020(D) parking shall be located within the development unless a shared parking agreement exists. Public parks and public parking areas shall not be used for overflow parking without such an agreement.

19. The project shall comply with all applicable requirements of the Design Standards for the Community of Kingston.

### **Survey.**

20. A Final Short/Large Lot/Subdivision Plat shall be prepared by a licensed Land Surveyor in compliance with KCC Title 16.

21. All private roads shall be labeled as tracts and constructed in accordance to Fire Code requirements. Ten feet for utility easement shall be provided on each side of private road tracts.

22. All potential park areas, common open space, buffers and stormwater management areas shall be labeled as separate tracts. The ownership and maintenance responsibility shall be addressed on the face of the final plat, as well as in the CCRs.

23. Access to all lots shall be from roads within the proposed plat boundaries. A note to this effect shall be placed on the Final Plat.

24. The names of the roads in this land segregation shall be approved by DCD prior to final subdivision approval.

### **Development Engineering.**

#### Stormwater.

25. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.



26. Approval of the preliminary plat shall not be construed to mean approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be revised for the final design to meet all requirements of KCC Titles 11 and 12.
27. The information provided demonstrates this proposal is a Large Project as defined in KCC Title 12, and as such will require an SDAP from Development Services and Engineering.
28. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with KCC Title 12 effective at the time the Preliminary Plat/Performance Based Development/Administrative CUP application was deemed complete, November 6, 2017. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.
29. Any project that includes off-site improvements that create additional impervious surface such as lane widening, sidewalk or shoulder installation, or intersection channelization shall provide stormwater mitigation in accordance with KCC Title 12 effective at the time the Preliminary Plat/Performance Based Development/Administrative CUP application was deemed complete, November 6, 2017.
30. The site plan indicates that greater than one acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Josh Klimek at 360-407-7451, email [joshklimek@ecy.wa.gov](mailto:joshklimek@ecy.wa.gov). This permit is required prior to issuance of the SDAP.
31. The Washington State Department of Ecology (Ecology) may require registration of the infiltration trench as an Underground Injection Control (UIC) well in accordance with the Underground Injection Control Program (Chapter 173-218 WAC). The Applicant shall contact Ecology to determine if the facility is regulated under the UIC program.
32. The design of the infiltration facilities shall be in accordance with Vol. II, Ch. 5.4 of the Kitsap County Stormwater Design Manual.
33. The infiltration facilities shall remain off line until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities.
34. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.

35. This project includes the construction of a detention vault, which requires a building permit issued by DCD. A Structural Engineer registered in the State of Washington shall prepare the construction drawings. In addition, a geotechnical engineering analysis of the vault design is required. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.

36. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.

37. Kitsap County will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in Kitsap County's judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.

38. The impervious area per lot accounted for in the overall drainage facilities installed shall be indicated on the face of the final plat, along with the following condition: Additional impervious surfaces created on an individual lot beyond the amount accounted for in the overall drainage facilities shall be mitigated in accordance with KCC Title 12.

39. If the project proposal is modified from that shown on the submitted site plan dated March 12, 2018, Development Services and Engineering will require additional review and potentially new conditions.

#### Traffic and Roads.

40. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the KCC. The KCPW 1601 form reserves road capacity for the project.

41. The following note shall appear on the face of the final plat map: "All interior roads shall remain private."

42. All traffic control devices on public and private roads shall comply with the Manual on Uniform Traffic Control Devices as amended by the Washington Administrative Code. This is in accordance with 23 Code of Federal Regulations (CFR), Part 655.

43. Frontage improvements, consisting of vertical curb, gutter, planting strip and six-foot sidewalk, are required for Lindvog Road NE along the entire property frontage.
44. Sidewalks and sidewalk ramps shall conform to the current requirements of the Americans with Disabilities Act per WSDOT standard plans at the time of construction.
45. Access to all lots shall be from roads within the proposed plat boundaries. A note to this effect shall be placed on the Final Plat.
46. The property owners within the plat shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the final plat map and the accepted construction plans. In addition, Development Services and Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.
47. Provide surveyed cross-sections at 50-foot intervals along the parcel frontage on Lindvog Road NE. The cross-sections should show existing and proposed pavement, shoulders, ditches and slopes. The cross-sections should also depict centerline of pavement and right-of-way, the right-of-way lines, and easements. If the required transit stop is located at the intersection of Lindvog Road NE and State Highway 104, cross-sections shall be provided along the parcel frontage and continuing north along Lindvog Road NE to its intersection with State Highway 104.
48. Submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with County rights-of-way. Approaches shall be designed in accordance with the Draft Kitsap County Road Standards Figures 4-3a or 4-3b (contact Kitsap County Public Works to obtain these figures) or WSDOT Standard Plan F-80.10-04.
49. Any required sidewalk shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.
50. The developer's engineer shall certify that there is adequate entering sight distance at both intersections of Lindvog Road NE and Road A. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The sight distance shall meet the requirements of the Kitsap County Road Standards. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.
51. All work, equipment and materials for traffic signal and street lighting installations shall meet and be in compliance with all requirements of the Kitsap County Road Standards, Project Contract Provisions of Plans and Specifications accepted for construction by Kitsap County, MUTCD Manual on Uniform Traffic Control Devices, NEMA National Electrical Manufacturer's

Association, NEC National Electrical Code, WSDOT Standard Specifications and Standard Plans, and the Occupational Safety and Health Administration (OSHA).

52. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process. The need for and scope of bonding will be determined at that time.

53. All interior roads shall remain private as proposed by the Applicant. Should the Applicant or its successors or assigns choose to dedicate these roads to Kitsap County, it shall be subject to a further review by Kitsap County Development Engineering. All improvements necessary to bring said roads to the then current Kitsap County standards shall be done at no expense to the County prior to being accepted into the Kitsap County road system for maintenance. This note shall appear on the face of the final plat map.

### **Environmental.**

54. The wetland buffer shall be averaged per the site plans and wetland report (C3 Habitat Corp., dated 10/2017). A split-rail fence shall be maintained along the outer buffer edge with wetland buffer signs placed every 40 feet, and vegetation enhancement maintained as provided on the landscape plan. A performance bond is required for the mitigation planting.

### **SEPA Conditions.**

55. A transit stop will be provided at the northwest corner of State Highway 104 and Lindvog Road NE, including off-site improvements for pedestrian access to the stop, pending WSDOT approval. The access will be a five-foot concrete or asphalt path that may be located up against the existing curb. An allowance for the planting strip is not required.

56. If WSDOT denies the transit stop location at a later date, or Kitsap Transit chooses to revise their condition to allow the transit stop in front of the development, then the offsite improvement will not be required. However, any transit improvements that would be required on the project frontage of Lindvog Road NE will be addressed with the SDAP submittal, along with demonstration of meeting off-site wetland buffers.

### **Fire Safety.**

57. Fire apparatus access roads are required and must be maintained. Any proposed revision to these roads must be submitted to, reviewed, and approved by the Kitsap County Fire Marshal's Office. IFC 503 Amended by Kitsap County. Access roads shall comply with the following:

58. Unobstructed width of 20 feet and height of 13 feet 6 inches.

59. Shall be designed and maintained to support a 60,000 pound fire apparatus and be provided with an all weather driving surface.

60. Dead end access roads exceeding 150 feet in length shall be provided with an approved turnaround.
61. Inside turning radius shall be a minimum of 25 feet (residential) 35 feet (commercial).
62. Access roads shall extend to within 150 feet of all portions of the exterior walls of the first story of the structure as measured by an approved route around the exterior of the structure or facility.
63. Road shall not be more than 12% grade.
64. Water line size and location and the location of fire hydrants must be shown on SDAP plans. A letter of water availability indicating available fire flow from the water purveyor is required to be submitted to the Kitsap County Fire Marshal's office prior to the approval of any building permits.
65. The minimum fire flow requirements for one and two family dwellings in subdivisions shall be 500 gallons per minute for thirty (30) minutes. One and two family dwellings 5,000 square feet or greater are also required to provide water for fire protection in the amount of 500 gallons per minute. However, they may use fire protection credits as listed in Table B103.3 to meet fire flow requirements, provided the total fire protection credits are equal to or exceed 500 gallons per minute.
66. A second fire department access is proposed and is required.
67. Proposed apartment is required to have a fire suppression system.
68. Hydrant placement can be reduced to every 600 feet.
69. Fire flow will be determined when information concerning construction type is provided.

**Solid Waste.**

70. Prior to SDAP approval, Waste Management (360) 674-3166 shall be contacted for information on implementing the solid waste/recycling storage requirements influenced by the service provider (e.g. dumpster size and location) for the project. Pay particular attention to the access requirements of collection trucks. Documentation shall be provided from the solid waste/recycling service provider that its requirements for this project have been met. The SDAP shall not be approved without this confirmation.

**Kitsap Public Health.**

71. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

72. The existing well and septic system shall be decommissioned prior to final plat. BINDING water availability letters or a developer's agreement for water is required prior to final plat.

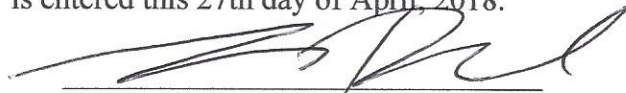
**Sewer and Water.**

73. Kitsap County sanitary sewer is available for the project. The Applicant shall submit an "Application to Construct Sanitary Sewer."

74. Kitsap County sanitary sewer is available for the project. The Applicant shall submit a complete set of sewer plans, profiles, and specifications designed in accordance with Kitsap County Public Works - Sewer Utility Division Standards and Regulations.

75. Sewer Availability Agreement account(s) must be kept current and in good standing through permit approval date.

THIS DECISION is entered this 27th day of April, 2018.



Kitsap County Hearing Examiner  
Susan Elizabeth Drummond